

REMARKS

In the November 12, 2008 Office Action, all of the claims (i.e., claims 1-38) stand rejected in view of prior art. No other objections or rejections were made in the Office Action.

Status of Claims and Amendments

None of the claims are being amended by the current Amendment. Thus, claims 1-38 are pending, with claims 1 and 3 being the only independent claims. Reexamination and reconsideration of the pending claims are respectfully requested in view of the following comments.

Rejections - 35 U.S.C. § 102

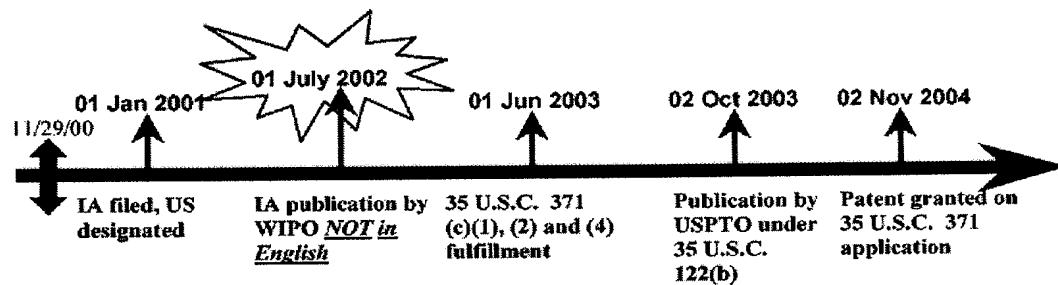
In paragraph 3 of the Office Action, claims 1-8, 14, 25, 36 and 38 (claims 32 and 33 also appear rejected in this section) stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Application Publication No. 2007/0125115 (Matsui et al.). In response, Applicants respectfully traverse the rejection as explained below.

Applicants respectfully assert that the *Matsui et al. publication does not qualify as prior art* of the present application because the Matsui et al. publication is based on the national stage of an international application filed after November 29, 2000 which was published as WO 2005/036062 A1 in Japanese under PCT Article 21(2). MPEP 706.02(f)(1)II Example 5 (page 700-34 of MPEP) as reproduced below clearly states "[a]ll references, whether the WIPO publication, the U.S. patent application publication or the U.S. patent, of an international application (IA) that was filed on or after November 29, 2000 but was not published in English under PCT Article 21(2) have **no 35 U.S.C. 102(e) prior art date at all**" (emphasis added). Accordingly, the Matsui et al. publication has **no 35 U.S.C. §102(e)** date, and thus, does not qualify as prior art of the present application.

According to MPEP 706.02(f)(1)II Example 5 as shown on the next page, the international application publication (WO 2005/036062 A1) of the Matsui et al. publication, which was published on April 21, 2005 by WIPO, may be applied under 35 U.S.C. §102(a). However, this is later than the instant application filing date, and thus, is not applicable.

Example 5: References based on the national stage (35 U.S.C. 371) of an International Application filed on or after November 29, 2000 and which was not published in English under PCT Article 21(2).

All references, whether the WIPO publication, the U.S. patent application publication or the U.S. patent, of an international application (IA) that was filed on or after November 29, 2000 but was not published in English under PCT Article 21(2) have no 35 U.S.C. 102(e) prior art date at all. According to 35 U.S.C. 102(e), no benefit of the international filing date (nor any U.S. filing dates prior to the IA) is given for 35 U.S.C. 102(e) prior art purposes if the IA was published under PCT Article 21(2) in a language other than English, regardless of whether the international application entered the national stage. Such references may be applied under 35 U.S.C. 102(a) or (b) as of their publication dates, but never under 35 U.S.C. 102(e).



The 35 U.S.C. 102(e)(1) date for the IA Publication by WIPO is: None.

The 35 U.S.C. 102(e)(1) date for the Publication by USPTO is: None.

The 35 U.S.C. 102(e)(2) date for the Patent is: None.

The IA publication by WIPO can be applied under 35 U.S.C. 102(a) or (b) as of its publication date (01 July 2002).

Additional Priority/Benefit Claims:

If the IA properly claimed priority/benefit to any earlier-filed U.S. application (whether provisional or nonprovisional), there would still be no 35 U.S.C. 102(e) date for all the references.

If a later-filed U.S. nonprovisional (35 U.S.C. 111(a)) application claimed the benefit of the IA in the example above, the 35 U.S.C. 102(e) date of the patent or publication of the later-filed U.S. application would be the actual filing date of the later-filed U.S. application.

Accordingly, Applicants respectfully request that this rejection under 35 U.S.C. §102(e) be withdrawn in view of the above comments.

Rejections - 35 U.S.C. § 103

In paragraphs 6-13 of the Office Action, claims 9-13, 15-24, 26-31, 34, 35, 37, stand rejected under 35 U.S.C. §103(a). Specifically, these claims are rejected as follows:

- A) Claims 9 and 34 stand rejected as being unpatentable over the Matsui et al. publication in view of U.S. Patent Application Publication No. 2006/0086111 (Kang et al.);
- B) Claims 10-12 stand rejected as being unpatentable over the Matsui et al. publication in view of the Kang et al. publication and further in view of U.S. Patent No. 5,950,442 (Maeda et al.);
- C) Claim 19-21, 26, 29 and 37 stand rejected as being unpatentable over the Matsui et al. in view of European Patent Publication No. 1 227 286 (Suzuki et al.);
- D) Claims 22-24 stand rejected as being unpatentable over the Matsui et al. publication in view of the Suzuki et al. publication and further in view of International Patent Application Publication No. 2003/029728 (Shimoda et al.);
- E) Claims 27, 28, 30 and 31 stand rejected as being unpatentable over the Matsui et al. publication in view of the Suzuki et al. publication and further in view of Japanese Patent Publication No. 2005-291570 (Ishida et al.);
- F) Claims 13 and 35 stand rejected as being unpatentable over the Matsui et al. publication in view of the International Patent Application Publication No. 99/14535 (Belding et al.);
- G) Claims 16-18 stand rejected as being unpatentable over the Matsui et al. publication in view of the Belding et al. publication and further in view of the Ishida et al. publication; and
- H) Claim 15 stands rejected as being unpatentable over the Matsui et al. publication in view of International Patent Application Publication No. 00/33932.

Appl. No. 10/591,060
Amendment dated January 27, 2009
Reply to Office Action of November 12, 2008

In response, Applicants respectfully traverse the rejection. As explained above, U.S. Patent Application Publication No. 2007/0125115 (Matsui et al.) **does not qualify as prior art** of the present application under 35 U.S.C. §102(e) because the Matsui et al. publication is based on the national stage of an international application filed after November 29, 2000 which was published as WO 2005/036062 A1 in Japanese. Moreover, the international application publication (WO 2005/036062 A1) of the Matsui et al. publication, which was published on April 21, 2005 by WIPO, is not prior art under 35 U.S.C. §102(a).

However, all of the rejections (A)-(H) under 35 U.S.C. §103(a) in the Office Action rely on U.S. Patent Application Publication No. 2007/0125115 (Matsui et al.) as the primary reference. Since U.S. Patent Application Publication No. 2007/0125115 (Matsui et al.) is not prior art under 35 U.S.C. §102, the rejections under 35 U.S.C. §103 are inappropriate.

In view of the above explanation, Applicants respectfully request that these rejections 35 U.S.C. §103 be withdrawn.

Prior Art Citation

In the Office Action, additional prior art references were made of record. Applicants believe that these references do not render the claimed invention obvious.

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In view of the foregoing amendment and comments, Applicants respectfully assert that claims 1-38 are now in condition for allowance. Reexamination and reconsideration of the pending claims are respectfully requested.

Respectfully submitted,

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